

# MAYOR & COUNCIL AGENDA COVER SHEET

**MEETING DATE:**

JUNE 3, 2002

**RESPONSIBLE STAFF:**

**Daniel Janousek, AICP,  
Planner**

**AGENDA ITEM:**

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
	Public Hearing:
	Historic District
	Consent Item
	Ordinance
	Resolution
	Policy Discussion
	Work Session Discussion Item
<b>X</b>	Other: Public Discussion

**PUBLIC HEARING HISTORY:**

(Please complete this section if agenda item is a public hearing)

Introduced	
Advertised	
Hearing Date	
Record Held Open	
Policy Discussion	

**TITLE: Exemption Request for SDP-01-007**

Public Discussion on Archstone Communities Plan.

**SUPPORTING BACKGROUND:**

The applicant, Archstone Communities, requests to be extracted from the Mayor and Council adopted Resolution R-11-02 authorizing a deferral of residential development approvals, as per Section 24-200(b) of the City Code, for the Schematic Development Plan (SDP), known as Kentlands Village, in Gaithersburg, Maryland.

The proposed plan includes mixed land use (316 residential apartments; 13,193 sq. ft. of office/commercial; and 6,913 sq. ft. of clubhouse) on approximately 5.85 acres of land. The subject property is located south of Quince Orchard Road, between Booth Street and Great Seneca Highway in the Kentlands development. The property is within the Mixed Use Development (MXD) Zone.

**Attached:**

Exhibit 1: Copy of Public Notice

Exhibit 2: Ordinance No. 0-1-02

Exhibit 3: Resolution No. R-11-02

Exhibit 4: Resolution No. R-25-02

Exhibit 5: March 6, Letter, Jody Kline (Representing Applicant) Miller, Miller and Canby - Requesting Exemption

**DESIRED OUTCOME:**

**Mayor and Council Vote on Exemption Request**



*Gaithersburg*

*A CHARACTER COUNTS! CITY*

**CITY OF GAITHERSBURG**

31 South Summit Avenue  
Gaithersburg, Maryland 20877  
Telephone: 301-258-6330

**NOTICE OF PUBLIC DISCUSSION**

The City of Gaithersburg Mayor and Council will conduct a public hearing at the time and place noted below.

*Meeting:* **PUBLIC DISCUSSION**  
*Application Type:* **EXEMPTION REQUEST**  
*File Number:* **SDP-01-007**  
*Location:* **KENTLANDS**  
*Applicant:* **ARCHSTONE COMMUNITIES**  
*Development:* **MIXED USE RESIDENTIAL/OFFICE/COMMERCIAL**  
*Day/ Date/Time:* **MONDAY, JUNE 3 at 7:30 PM**  
*Place:* **COUNCIL CHAMBERS, GAITHERSBURG CITY HALL**  
**31 SOUTH SUMMIT AVENUE**

**\*\*\* IMPORTANT \*\*\***

The applicant requests to be extracted from the Mayor and Council adopted Resolution R-11-02 authorizing a deferral of residential development approvals, as per Section 24-200(b) of the City Code, for the Schematic Development Plan (SDP), known as the Archstone Communities Kentlands Village project, in Gaithersburg, Maryland. The proposed plan includes mixed land use (316 residential apartments; 13,193 sq. ft. of office/commercial; and 6,913 sq. ft. of clubhouse) on approximately 5.85 acres of land. The subject property is located south of Quince Orchard Road, between Booth Street and Great Seneca Highway in the Kentlands development. The property is within the Mixed Use Development (MXD) Zone. Contact the Planning and Code Administration City Planner (listed below) at (301) 258-6330 if you should have any questions and/or to learn more about this process and your ability to offer testimony and input.

**CITY OF GAITHERSBURG**

By: \_\_\_\_\_  
Daniel R. Janousek, AICP, Planner  
Planning and Code Administration

**SEE LOCATION MAP ON REVERSE SIDE**

**NOTICES SENT THIS 24TH DAY OF MAY, 2002, TO:**

APPLICANT AND INTERESTED PARTIES

(A list of interested parties and agencies is available in the file in the Planning and Code Administration.)

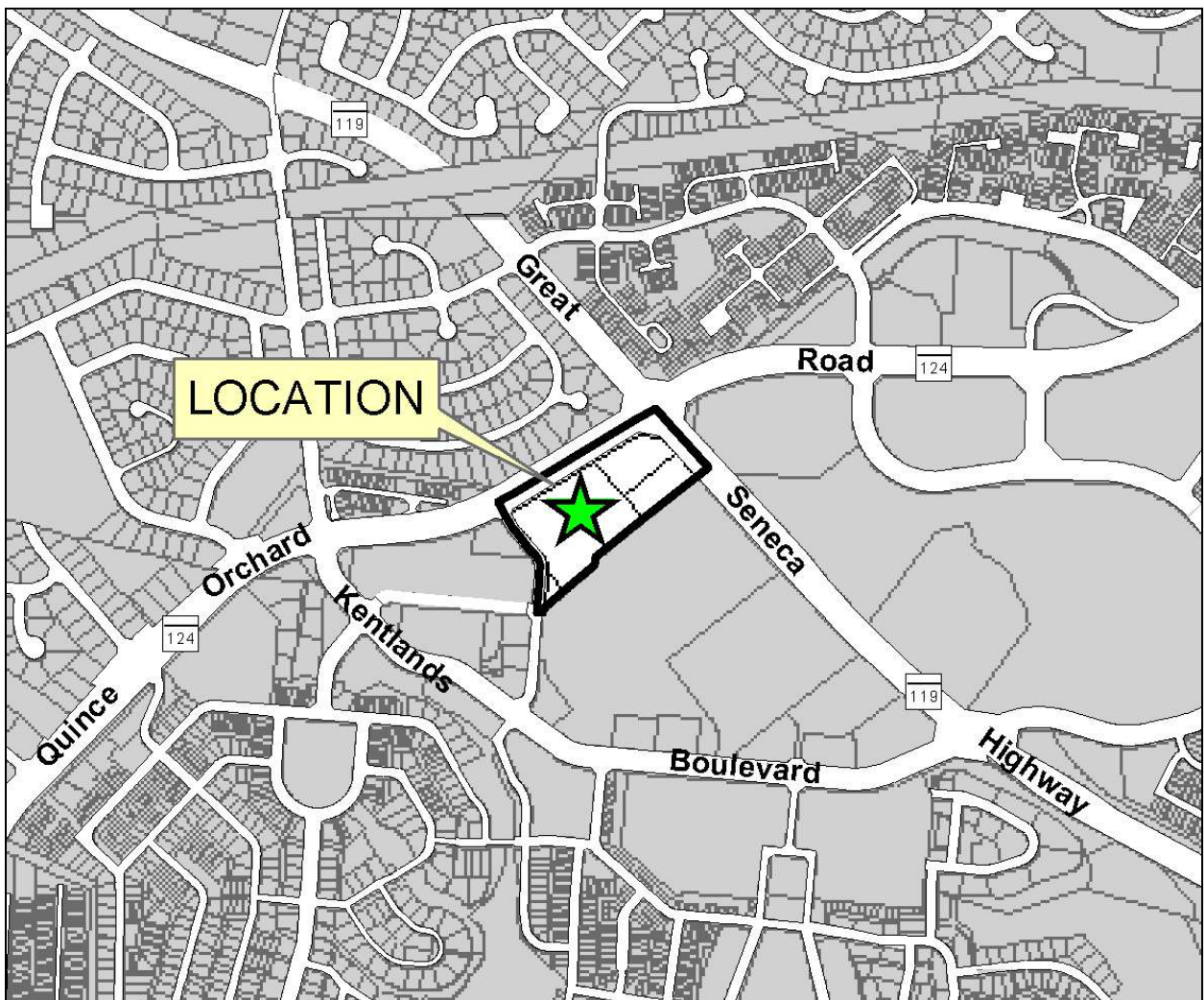
MAYOR AND COUNCIL

PLANNING COMMISSION

CITY STAFF

David Humpton, City Manager  
Frederick J. Felton, Assistant City Manager  
Tony Tomasello, Assistant City Manager  
Stanley D. Abrams, City Attorney  
Mary Beth Smith, Public Information Director  
Doris Stokes, Administrative Assistant  
Jeff Baldwin, City Web Administrator

**LOCATION MAP**



ORDINANCE NO. O-1-02

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE  
(CITY ZONING ORDINANCE), ARTICLE VIII, ENTITLED  
"AMENDMENT PROCEDURE" SECTION 24-200, THEREOF  
ENTITLED "DEFERRALS OF PENDING MAP AMENDMENT AND  
TEXT AMENDMENT APPLICATIONS" TO CHANGE  
THE TITLE OF SECTION 24-200 AND TO APPLY  
THE PROVISIONS OF THIS SECTION TO SCHEMATIC  
DEVELOPMENT PLAN, SKETCH PLAN AND CONCEPT  
PLAN APPROVALS BY THE CITY COUNCIL.

TEXT AMENDMENT   T-350  

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, Maryland in public meeting assembled, that Chapter 24 of the City Code (City Zoning Ordinance) Article VIII, § 24-200.12 be amended to read as follows:

ARTICLE VIII. AMENDMENT PROCEDURE

\* \* \* \* \*

Sec. 24-200. Deferrals of pending map amendment [and], text amendment, schematic development plan, sketch plan and concept plan applications.

The processing, public hearing or decision of any pending local map amendment [or], text amendment, schematic development plan, sketch plan, or concept plan for the CD Zone application, or amendments to any of the previous described plans may, after recommendations are received from the [city planning department] Department of Planning and Code Administration, be postponed or deferred by resolution approved by [not less than four (4) members of ]the city council when, in the discretion of the city council, the pendency of any master plan amendment, transportation plan amendment, zoning and planning study, or capital improvement program or project or amendment thereto may substantially affect applications under consideration, and promote orderly zoning and planning within the city, as well as the efficient and economical processing of such applications. A pending local map amendment [or], text amendment, schematic development plan, sketch plan or concept plan application may be deferred until the earlier of either:

- (a) The final disposition by the city council of the pending master plan amendment, transportation plan amendment, zoning and planning study, or capital improvements program or project or amendment thereto; or
- (b) In the discretion of the city council, the elimination of any conflicts between the pending local map amendment [or], text amendment, schematic development plan, sketch plan or CD Zone concept plan application or amendments thereto and the pending master plan amendment, transportation plan amendment, zoning and planning study, or capital improvements program or project; or
- (c) Twelve (12) months from the effective date of the resolution postponing or deferring the application.

The terms "pendency" or "pending" shall , for the purposes of this section, mean:

- (i) *Master plan and transportation plan amendments* – From and after public release of a staff draft of the amendment until final action thereon by the city council.
- (ii) *Zoning and planning study* – From and after direction of the city council or the city planning commission to city staff to undertake such study until such time as the study is completed and released by city staff to the requesting agency and said agency has concluded its review, including further instructions to staff, if any.
- (iii) *Capital improvements program or project* – From and after publication of any proposed capital improvements program, project, or an amendment thereto until final action thereon by the city council.

Any cost of readvertisement for an application postponed or deferred by the city council under this section shall be borne by the city.

ADOPTED, this 7th day of January, 2002, by the City Council of Gaithersburg, Maryland

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SIDNEY A. KATZ, Mayor and  
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland this 7th day of January, 2002.  
Approved by the Mayor of the City of Gaithersburg this 7th day of January, 2002.

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SIDNEY A. KATZ, Mayor

THIS IS TO CERTIFY that the foregoing ordinance was adopted by the City Council of Gaithersburg, in public meeting assembled, on the 7th day of January, 2002, and that the same was approved by the Mayor of the City of Gaithersburg on the 7th day of January, 2002. This Ordinance will become effective on the 28<sup>th</sup> day of January, 2002.

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DAVID B. HUMPTON, City Manager

RESOLUTION NO. R-11-02

RESOLUTION OF THE MAYOR AND CITY COUNCIL  
AUTHORIZING A DEFERRAL OF RESIDENTIAL  
DEVELOPMENT FOR A PERIOD OF UP TO ONE YEAR

WHEREAS, the City of Gaithersburg has begun a systematic update of its Master Plan as directed in Resolution No. R-8-02, adopted on January 7, 2002; and

WHEREAS, the Director of the Department of Planning and Code Administration has recommended that residential land use decisions be deferred pending the completion of the Master Plan process; and

WHEREAS, it is anticipated that said Master Plan review effort will be completed prior to January 2003; and

WHEREAS, the Mayor and City Council have determined that it is in the best interest of the citizens of Gaithersburg to defer residential development activity until such pressing issues as traffic congestion and school overcrowding are analyzed during the Master Plan process; and

WHEREAS, it is the intent of the Mayor and City Council to present timely public updates on the Master Plan revision to the public and provide numerous opportunities for public input and participation by all stakeholders and all levels of government:

NOW THEREFORE, BE IT RESOLVED, by the City Council of Gaithersburg, Maryland that all applications which are residential in nature for local map amendments, text amendments, schematic development plans, sketch plans, or concept plans for the CD zone, or amendments to any of said applications, shall be held in abeyance for a period of one year unless the City Council determines that the project which is the subject of the application is not in conflict with the pending Master Plan update pursuant to the provisions of Section 24-200(b) of the City Code.

ADOPTED by the City Council this 22<sup>nd</sup> day of January, 2002.

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SIDNEY A. KATZ, MAYOR and  
President of the Council

THIS IS TO CERTIFY that the foregoing  
Resolution was adopted by the City Council  
in public meeting assembled on the 22nd day  
of January, 2002.

---

David B. Humpton, City Manager

Resolution No. R-25-02

RESOLUTION OF THE MAYOR AND CITY COUNCIL OUTLINING THE  
PROCESS AND CRITERIA TO CONSIDER PERMITTING RESIDENTIAL  
PROJECTS TO PROCEED DURING THE RESIDENTIAL DEFERMENT  
PERIOD AS AUTHORIZED IN RESOLUTION NO. R-11-02

WHEREAS, the City of Gaithersburg has begun a systematic update of its Master Plan and;

WHEREAS, The Mayor and City Council has adopted Resolution No. R-11-02 which authorized a deferral of residential development approvals for up to one year per Section 24-200 of the City Code; and

WHEREAS, Section 24-200(b) of the City Code permits the City Council to extract certain projects from the aforementioned residential deferral if the project is not in conflict with the pending Master Plan amendment; and

WHEREAS, The Mayor and City Council have determined it is necessary and appropriate to designate a process to facilitate said extractions and to outline considerations upon which said actions may be based; and

WHEREAS, The Mayor and City Council held a public worksession on February 11, 2002 to receive public input on the proposed process and criteria.

NOW THEREFORE, BE IT RESOLVED, by the City Council of Gaithersburg, Maryland that the following process will be followed when considering requests to permit projects to proceed during the residential deferment period:

1. Upon written request of the applicant, the City will schedule a public discussion on the request to be held during the course of a regular Mayor and Council meeting. The written request must identify the property, state the current status of the project, and the reasons supporting the request.
2. At least 9 days prior to the public discussion, the property in question will be posted as to the discussion date.
3. Information regarding the planned discussion will be posted on the City's web site and the City's cable channel.
4. Notice by mail will be distributed based on the same criteria used for site plan notification.
5. Conduct public discussion and decision.

AND BE IT FURTHER RESOLVED, by the City Council of Gaithersburg that the City Council will consider the following criteria in determining whether, in the Council sole discretion, to allow a project to proceed:

1. Any plan devoted exclusively to housing for the elderly, or any plan for a group home for members of a protected class.
2. Any plan which is submitted to carry out the terms and conditions of an annexation agreement when the City Council has, within the previous twelve (12) months, made a finding based upon conditions imposed in any approval of a project for such annexed property that public facilities will be adequate.
3. A redevelopment project whose approval is determined to be in the public interest due to its ability to prevent and or eliminate decay, slums or blight in a neighborhood.
4. Any proposed project which is located in an area that was the subject of a special study area review by the Mayor and City Council in which case consensus was reached by the City Council as to the applicable properties future Master Plan designation, and any special Master Plan conditions applicable thereto.
5. Any plan for the renovation of a structure designated as historic by the City Historic District Commission.

AND BE IT FURTHER RESOLVED, by the City Council of Gaithersburg that projects meeting one or more of the criteria outlined above are only entitled to consideration of being allowed to proceed, and the fact that a project or plan complies with one or more of the above stated criteria shall not constitute any right requiring a project be removed from deferral or be deemed to create a presumption that the plan or project shall be entitled to proceed on the basis that it does not conflict with the pending Master Plan amendment.

ADOPTED by the City Council this 4<sup>th</sup> day of March, 2002.

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GERALDINE EDENS  
COUNCIL VICE PRESIDENT

THIS IS TO CERTIFY that the foregoing  
Resolution was adopted by the City Council  
in public meeting assembled on the 4<sup>th</sup> day  
of March, 2002.

---

David B. Humpton, City Manager



LAW OFFICES

# MILLER, MILLER & CANBY

CHARTERED

200-B MONROE STREET  
ROCKVILLE, MARYLAND 20850

(301) 762-5212  
FAX (301) 762-6044

JAMES R. MILLER, JR.\*  
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SUSAN W. CARTER  
SUZANNE L. ROTBERT  
ROBERT E. GOUGH  
MICHAEL G. CAMPBELL  
JON W. LUTHER  
\*OF COUNSEL

May 13, 2002

Mayor and City Council  
Gaithersburg City Hall  
31 South Summit Avenue  
Gaithersburg, Maryland 20877

Re: Schematic Development Plan Amendment Application No. SDP-01-007,  
Application of Archstone Communities  
"Kentlands Village"

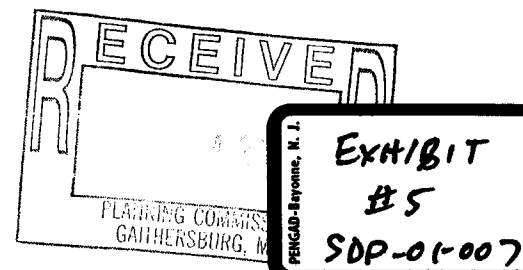
Dear Mayor Katz and Members of the City Council:

Archstone Communities, the applicant for Schematic Development Plan Amendment approval in Application No. SDP-01-007, requests that its "Kentlands Village" project be exempted from the provisions of Resolution No. R-11-02. (Text Amendment T-350) which authorizes a deferment of approvals for residential development for a period of up to one year. In particular, Archstone requests that the City initiate the public hearing process to determine if Application No. SDP-01-007 meets the criteria for exemption adopted by the City. If so, its SDP amendment application can then be reactivated and can proceed to further review and action by the City.

An exemption from the "residential deferment" provisions of the City Zoning Ordinance is justified for the following reasons:

- 1) Archstone's SDP Amendment application proposes redevelopment of the vacant former Upton's store and has now been amended and expanded to incorporate the vacant former "Boston Market" restaurant site as well. This proposal, therefore, represents an unparalleled opportunity to redevelop two blighted, failed retail buildings with a more comprehensively designed and more enriching land use. "Kentlands Village" will not only remove existing negative features of the built environment but will replace them with new sustaining uses that will benefit the larger community.

J:\B\BAIER\14276-JSK\Mayor&Counciltr.doc  
May 14, 2002 3:16 PM



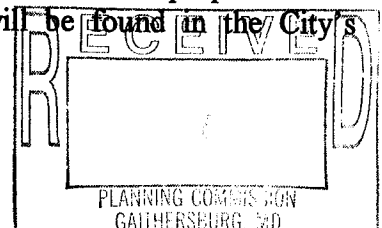
- 2) "Kentlands Village" is consistent with the "themes" to be incorporated in the City's Master Plan in the following manner:

A. "REDEVELOPMENT"

- (1) The project will be planned, designed and sequenced in conjunction with redevelopment of the now vacant adjacent Boston Market site. Thus, "KENTLANDS VILLAGE" is part of a comprehensive redevelopment plan for critical land parcels that, to date, have been disappointments to the City and its residents.
- (2) As a result of the City's Master Plan discussions, and further dialogue with interested persons, Archstone has revised its initial submission so that "Kentlands Village" is now better integrated into the overall fabric of Kentlands, thus ensuring a preferred form of development for the City. Important features (e.g., reduction of the number of dwelling units, introduction of office and retail/commercial uses, creation of a plaza facing Route 124) ensure that "Kentlands Village" will be a significant contribution to the design and vitality of Kentlands. Indeed, a circulation pattern will be established that will encourage a driveway connection facilitating future integration of "Kentlands Village" with the Kentlands Square Shopping Center.

B. "IDENTITY"

- (1) "Kentlands Village" presents stunning architecture, neo-traditional design principles and features that have become part of the fabric of "Kentlands" and Gaithersburg as a whole. "Kentlands Village" will further Gaithersburg's identity and its reputation as a national model of appropriate sensitive development.
- (2) "Kentlands Village" incorporates complementary (i.e., office, retail, community and open space) uses within the limits of the project continuing the City's pursuit of mixed use development.
- (3) Section 24-200(b) of the City Code provides that the City Council may defer a pending schematic development plan until conflicts between a project plan and the master plan amendment have been reconciled. Through vigorous efforts, including incorporation of additional land area, redesign and coordination with various interest groups, culminating in last week's "stakeholders" meeting, Archstone has refined its proposal to be consistent with the recommendations that will be found in the City's



Mayor and City Council  
Gaithersburg City Hall  
May, 13, 2002  
Page 3

revised master plan when adopted and published. Therefore, the purpose for which the deferment was established has been achieved for the Uptons/Boston Market sites and these properties should now be exempted from the deferment.

Based on the considerations set forth above, Archstone Communities requests that the Mayor and Council commence the process which will foster a public discussion about why the Archstone project should be exempted from the residential deferment.

Thank you for your consideration of this request.

Sincerely yours,

MILLER, MILLER & CANBY



Jody S. Kline

CC: David Hampton  
Fred Felton  
Jennifer Russel  
Dan Janousek  
Lowell Baier  
Andy Brown  
Jon Wallenstrom  
Jon Wood  
Mike Watkins

